

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of)
) CG Docket No. 02-278
Rules and Regulations Implementing the) DA 05-1346
Telephone Consumer Protection Act of 1991)

COMMENTS OF AMERIDIAL, INC.

I. INTRODUCTION

These public comments are being offered for purpose of providing comments in support of the petition for declaratory ruling relating to the Commission's jurisdiction over interstate telemarketing, as well as providing support for the comments fielded by Earl Copilevitz, Esquire on behalf of the Coalition of Non-Profit Organizations in the above-captioned matter.

Ameridial, Inc. is a medium size, for-profit telemarketing service bureau. Approximately 70% of Ameridial's business (revenues) is derived from campaigns conducted on behalf of non-profit / charitable organizations. Ameridial clients are usually the largest and most commonly recognized charities in America today.

A typical campaign conducted by Ameridial, on behalf of non-profit clients, includes calling residential telephone subscribers to recruit volunteers for the respective organization. Often referred to as “Notes To Neighbors” or “Dear Neighbor” campaigns, the specific request / assignment of the volunteer is to mail pre-printed educational / solicitation letters to their neighbors. Volunteers are requested to hand address the envelopes, sign the letters, and provide the postage.

The letters that volunteers mail to their neighbors contain information that is the core of the respective organization's

charter. For example, a letter for a cancer research organization typically contains the information on the warning signs of cancer as well as cancer prevention tips. In addition to the educational value, the letters request donations (of the neighbors) to the respective organization.

Non-profit organizations rely heavily on the neighborhood mailing campaigns to: 1) reduce (postage) mailing costs, 2) control processing labor costs, and 3) leverage neighbor affiliation to increase donations. These types of programs are substantially larger than the stereotypical “direct ask” types of (telefunding) campaigns. Charities outsource these efforts because they do not have domain expertise in the telemarketing function. Gaining domain experience would only distract the charities from their core charge and focus. Ameridial shares in the financial risks of the campaigns by offering volunteer recruitment services on a performance (price per volunteer) basis.

II. COMMENTS

Ameridial supports the Coalition of Non-Profit Organizations' comments that numerous states have erroneously exerted jurisdiction over interstate calling (for all of the reasons documented therein), that the patchwork of inconsistent regulations (across states) undermines the uniformity that Congress sought, resulting in confusion with consumers and telemarketers alike, and that the Commission's declaration of exclusive regulatory jurisdiction over interstate telemarketing does not undermine attorneys general ability to protect their respective constituents. Rather than redundant echo comments by the Coalition, however, Ameridial would like to submit additional comments on the direct impact of state regulations. It is our concern that the associated costs of excessive state regulation add unnecessary costs for charities to the detriment of society.

Ameridial has calculated it's annual cost of compliance, with the myriad of state and federal telemarketing regulations, to be in

excess of \$228,000. Approximately 65% of the compliance costs are directly attributable to compliance with state statutes (being applied to interstate telemarketing). As with any cost of doing business, these costs have to be born by the client. Every dollar spent by our non-profit clients on compliance, is a dollar that is not available for research, education, assistance, and similar charter obligations. It strikes us as unconscionable when states add undue burden and costs of doing business at the very time when government is calling for charities to do more for America.

Increasing costs also have the impact of driving jobs offshore. As dollars available for research, services, and education shrink, organizations are forced to find other ways to cut fundraising costs. To date, the major non-profits have made every effort to avoid moving telefunding efforts offshore. As offshore outsourcing becomes more mainstream and as costs continue to rise, however, it's likely just a matter of time before non-profits begin to test offshore outsourcing of tasks, particularly those tasks that are less visible and of less risk than the telephone contact with potential volunteers and/or donors. Tasks such as volunteer / donor verification and keypunch are vulnerable first steps.

As significant as the direct costs may be, opportunity costs are an even bigger impact on non-profits. Lengthy disclosures, such as "professional solicitor" and location information, during the introduction are annoying to consumers. We see quicker hang-ups (which translates into missed opportunities) in states that require additional disclosures are required of third-party fundraisers.

Similarly, we see lower conversion rates in states that have no-rebuttal statutes. (Conversion rates are defined as volunteers divided by the total number of consumers contacted.) This is not to say that Ameridial condones badgering prospects. Rather, we try to keep the costs down for the non-profit with a short request. Often times, a potential volunteer will have a change of heart after initially, perhaps instinctively, declining the request and are then presented with additional information on the number of lives that they can touch by simply mailing a few letters to their neighbors. We see a lift of about 2% in states that allow a second

attempt to recruit the volunteer. Computed across 13 million contacts, the difference in costs to the non-profit is several hundred thousand dollars.

Comparing fiscal years July 2002 through June 2003 with July 2004 through June 2005, Ameridial saw a 5.3% decrease in conversion rates. We attribute the decline to additional legislation put in place by the states. Since Ameridial provides volunteer recruitment services to non-profits on a performance-based pricing arrangement, the 5.3% drop increased Ameridial costs by \$614,961. Again, any costs of doing business will eventually be passed on to the non-profit.

A 5.3% drop in volunteers, taking into account conversion rate and average donation size, equates to a decrease of \$680,504 in revenue to our charity clients. Much of this shortfall is made up by recruiting lower priority volunteers in the same neighborhood. However, it needs to be highlighted that lower priority volunteers are designated as lower priority because their fulfillment rate and/or donation rate isn't as good as the top priority prospect.

II. CONCLUSION

Inconsistent, additional restrictions placed by states upon those calling on behalf of charitable concerns results in a great deal of both confusion and cost to all parties.

While the exact cost to the non-profit is difficult to calculate, it's safe to say that restrictions placed on third parties by the states, that do not apply equally to members or employees of the charitable concern, results in significantly fewer dollars being available for education, services, and cure research.

We urge the Commission to rule in favor of confirming it's sole jurisdiction over interstate telefunding and enforcing a uniform set of requirements to the benefit of America.

Calculations: Cost of Compliance

Burden	Cost	Uniform set of rules
Compliance Officer Wages	\$17,649.00	\$4,412.25
Seminars	\$2,400.00	\$2,400.00
Educational Research Software	\$599.00	\$599.00
Ongoing Agent Training	\$112,266.00	\$24,948.00
New Agent Training	\$12,600.00	\$4,208.40
Supervisor Training	\$9,000.00	\$3,000.00
Agent Inquiries	\$864.00	\$216.00
DNC Registration prep labor	\$360.00	\$10.00
Solicitor Registration labor	\$360.00	\$10.00
Sales Rep training / review	\$1,125.00	\$375.00
Sales Assistant research	\$600.00	\$60.00
Hardware deprec. / doc. storage	\$133.33	\$13.00
DNC list downloprocessing labor	\$9,000.00	\$900.00
Processor depreciation	\$2,000.00	\$571.43
State Registrations	\$12,700.00	\$12,700.00
State DNC Lists	\$9,001.00	\$0.00
NueStar Ported Wireless File	\$1,000.00	\$1,000.00
National DNC File	\$15,400.00	\$15,400.00
Caller ID Labor and LD	\$6,998.40	\$6,998.40
Caller ID Recording Labor	\$1,296.00	\$1,296.00
Legal reviewof scripts/statutes	\$7,200.00	\$500.00
Project specific Proj. Mgr.	\$200.00	\$50.00
Project specific Agent training	\$4,200.00	\$840.00
Project specific Prog. labor	\$150.00	\$20.00
Company Management Training	\$960.00	\$53.44
Total labor costs	\$228,061.73	\$80,580.92